

REMARKS

Claim 1 has been amended in order to provide that the group "nitro" is a possible alternative for only the R₃ substituent. Support for this amendment occurs, for example, in the table on page 9 of the specification wherein the group nitro is set forth as a possible R₃ substituent.

Claim 4 has been amended in order to correct an obvious typographical error in the term "NHCH₃", which now correctly reads as "NCH₃". Support for this amendment occurs, for example, in the table on page 9 of the specification wherein the group "NCH₃" is correctly shown.

Claims 7-10 have been added by the foregoing amendments. Support for claim 7 occurs in Example 1 on page 3 of the specification. Claims 8 and 10 are simply the corresponding pharmaceutical composition claims for the compounds of claims 7 and 4, respectively. Claim 9 is simply to corresponding method of use claim for the compound of claim 7.

Claims 1-3 were in the application as originally filed. Claim 2 was canceled and claims 4-6 were added in the Preliminary Amendment filed on September 20, 2001. Claims 7-10 have been added by the foregoing amendment. Claims 1 and 3-10 remain in the application.

Claims 1, 3, and 5 are rejected under 35 U.S.C. §112, first paragraph, for containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the claimed invention. In support of this rejection the Examiner has stated that:

The amendment to the definition of R₁, R₂, R₃, R₄, and R₅ where R₁, R₂, R₃, R₄, and R₅ is nitro is not defined in the specification with respect to the genus of Formula (I).

This rejection is traversed and reconsideration and withdrawal thereof are requested for the reasons given hereinbelow.

Initially, Applicants would point out that claim 1, as amended, provides that the group "nitro" is a possible alternative for only the R₃ substituent. As the specification clearly sets forth that "nitro" is a possible R₃ substituent (see table on page 9 of specification), surely it cannot be said that Applicants were not in possession of the claimed invention at the time the

instant application was filed. Accordingly, no basis is seen for the rejection of claims 1, 3, and 5 under U.S.C. §112, first paragraph, and the rejection should, therefore, be withdrawn.

Claims 4 and 6 are rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the claimed invention. In support of this rejection, the Examiner has stated that:

The subgenus in Claim 4 where X is O, NH, NHCH₃; n is 0 or 1; R₁ is hydrogen, bromo, methyl or methoxy; R₂ is hydrogen, methyl, methoxy, trifluoromethyl, fluoro or chloro; R₃ is chloro, bromo, methyl, methoxy, nitro, fluoro, hydrogen, phenyl trifluoromethoxy or phenoxy; or R₂ or R₃ together form a group of the formula -OCH₂O- or -CH₂CH₂CH₂CH₂-; R₄ is hydrogen; and R₅ is hydrogen or methoxy is not defined in the specification.

This rejection is traversed and reconsideration and withdrawal thereof are requested for the reasons given hereinbelow.

Initially, Applicants would point out that the description requirements of 35 U.S.C. § 112, paragraph one, may be satisfied by either a description in the specification as filed of the subgenus or a description of species thereof amounting, in aggregate, to the same thing (see *In re Welstead* 174 USPQ 449 and *In re Johnson and Farnham* 194 USPQ 187.) In this regard, Applicants submit that the 23 examples set forth in the table on page 9 of the specification in aggregate amount to the subgenus described in instant claim 4. As the 23 examples described in the specification, in aggregate, amount to a description of the subgenus represented by the claims in question, i.e. claims 4 and 6, it is believed that the rejection of claims 4 and 6 under 35 U.S.C. §112, first paragraph, is unwarranted and should, therefore, be withdrawn.

Claims 4 and 6 are rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In support of this rejection, the Examiner has stated:

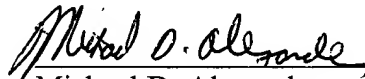
Claims 4 and 6 are vague and indefinite in that it is not known what is meant by the definition of X, which is divalent where X is NHCH₃.

This rejection is believed to be overcome and should be withdrawn in view of the above described amendments to claim 4 wherein the typographical error in the term "NHCH₃" was corrected to read as "NCH₃".

In view of the foregoing amendments and remarks reconsideration and withdrawal of the rejection of: a) claims 1, 3, and 5 under 35 U.S.C. §112, first paragraph, b) claims 4 and 6 under 35 U.S.C. §112, first paragraph, and c) claims 4 and 6 under 35 U.S.C. §112, second paragraph, is requested and allowance of claims 1 and 3-10 is respectfully requested.

Respectfully submitted,

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